

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ASTELLAS INSTITUTE FOR
REGENERATIVE MEDICINE,

Plaintiff,

v.

IMSTEM BIOTECHNOLOGY, INC.,
XIAOFANG WANG, and REN-HE XU,

Defendants.

C.A. NO. 1:17-cv-12239 ADB

DEFENDANTS' NOTICE OF APPEAL

Notice is hereby given that ImStem Biotechnology, Inc., Xiaofang Wang, and Ren-He Xu, defendants in the above-named case, hereby appeal to the United States Court of Appeals for the Federal Circuit from the final judgment entered in this action on the tenth day of March, 2022. A copy of that final judgment is attached hereto as Exhibit A.

Dated: April 8, 2022

Respectfully submitted,

IMSTEM BIOTECHNOLOGY, INC.;
DR. XIAOFANG WANG; and
DR. REN-HE XU

By their Attorneys,

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EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ASTELLAS INSTITUTE FOR
REGENERATIVE MEDICINE,

Plaintiff,

v.

IMSTEM BIOTECHNOLOGY, INC.,
et al.,

Defendants.

Civil Action No. 17-cv-12239 ADB

JUDGMENT

IT IS ORDERED THAT:

1. Judgment is hereby entered in favor of Plaintiff and against Defendants as to the claim for (Count 1) Correction of Inventorship of United States Patent No. 9,745,551 (“the ’551 patent”), pursuant to [35 U.S.C. § 256](#).¹

a. The Director of the United States Patent and Trademark Office is hereby ordered to add Robert Lanza and Erin Kimbrel as inventors on the ’551 patent and the ’122 patent and to remove Xiaofang Wang and Ren-He Xu as inventors, and Defendants are ordered to cooperate with Plaintiff to effectuate the change in inventorship of the ’551 and ’122 patents, including executing or filing any necessary Petitions to Correct Inventorship or assignments.

2. Judgment is hereby entered in favor of Plaintiff and against Defendants as to the claim for (Counterclaim 1) Correction of Inventorship of U.S. Patent No. 8,961,956 to add Dr. Wang as

¹ The parties stipulated that any judgment on the ’551 patent would be binding on U.S. Patent No. 10,557,122 (the “’122 patent”). [ECF No. 95; ECF No. 218 at 3 n.2; ECF No. 220 at 16; ECF No. 218-1 ¶¶ 37-38; *see also* ECF No. 255 at 38 n.17].

Inventor, and (Counterclaim 2) Correction of Inventorship for U.S. Patent No. 8,962,321 to add Drs. Xu and Wang as Inventors. There will be no change to the listed inventors of U.S. Patent Nos. 8,961,956 and 8,962,321.

3. Judgment is hereby entered in favor of Defendants and against Plaintiff as to the claim for (Count 5) Unfair Trade Practices Under Massachusetts General Law Chapter 93A.

4. Plaintiff's (Count 3) Conversion, (Count 4) Unjust Enrichment, (Count 6) Misappropriation of Trade Secrets, (Count 7) Negligent Misrepresentation, and (Count 8) Breach of Contract are dismissed with prejudice.

5. Defendants' (Counterclaim 3) Unjust Enrichment is dismissed with prejudice.

6. Plaintiff is hereby determined to be the prevailing party under Fed. R. Civ. P. 54(d).

7. Plaintiff shall have 14 days to submit a bill of costs under Fed. R. Civ. P. 54.

8. Plaintiff may within 30 days move to demonstrate entitlement to attorneys' fees under Fed. R. Civ. P. 54. Defendants shall submit their opposition within 14 days after Plaintiff's motion is filed. If the initial motion is resolved in its favor, Plaintiff may, within 21 days, submit additional briefing and evidence to establish the quantum and reasonableness of such attorneys' fees.

SO ORDERED.

Dated: March 10, 2022

/s/Allison D. Burroughs

ALLISON D. BURROUGHS
U.S. DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2022, I caused a true copy of the foregoing document to be served upon all counsel of record via the Court's CM/ECF electronic filing system.

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